

THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANDREW S. WOLF AND STEPHANIE L.)
WOLF AND ALL OCCUPANTS,)

Plaintiffs,)

v.)

NEW CENTURY MORTGAGE CORP,)
MERS Mortgage Electronic Registration)
Systems Inc, WELLS FARGO NA,)
NORTHWEST TRUSTEE SERVICES, doing)
business in the State of Washington,)

Defendants.)

NO. CV-11-05474-RBL

ORDER GRANTING MOTIONS TO
DISMISS
[DKT. #s 9 & 13]

THIS MATTER is before the Court on Defendants Wells Fargo Bank, N.A.'s and Mortgage Electronic Registration Systems, Inc.'s (MERS) Motion to Dismiss for Failure to State a Claim [Dkt. #9], and Defendant Northwest Trustee Services Motion to Dismiss [Dkt. #13].

The case involves the foreclosure of the pro se Plaintiffs' home, and Plaintiffs' efforts to either stop or recover damages from that foreclosure. Moving Defendants are Wells Fargo, MERS, and the successor Trustee. All seek dismissal under Rule 12(b)(6) for failure to state a claim. It does not appear that Defendant New Century Mortgage has been served, and it has not appeared or sought dismissal.

ORDER- 1

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2 The Defendants' Motion argues that plaintiffs have failed to state a claim under Fed.
3 R. Civ. P. 12(b)(6). Both Motions are well taken and thorough. Any response was due
4 September 5, 2011 Plaintiffs failed to file a response of any kind, though. Under W.D.
5 Wash. Local Civil Rule 7(b)(4), the court can deem the Plaintiffs' failure to respond to be an
6 admission that the motion has merit.

7 On September 9, 2011, Plaintiffs filed a document entitled "AMENDMENT to:
8 Wrongful Foreclosure, Request for Extension of Time, Plaintiff's Request that Pro Se Status
9 be Recognized, Nice Offer & Demand, Negligence, Fraud, Cancellation of Voidable
10 Contract, Set Aside Trustee's Sale, Void Trustee's Deed Upon Sale, Void Assignment of
11 Deed of Trust, Breach of Contract, Breach of Implied Covenant, Unjust Enrichment,
12 Violation of Washington Business Code, Quiet Title and Slander of Title." [Dkt. #17].
13 Among other things, that document asks the Court to consider the Plaintiffs' pleadings in the
14 context of their pro se status. The court has done so, and has construed the submittal
15 liberally.

16 Nevertheless, the 66 page submittal does not address the defendants' arguments in
17 any way. The submittal is largely taken from internet sites, consists of [proposed] discovery
18 to the Defendants on a host of irrelevant matters, and misapprehends the burden of proof on
19 the Motion and on the underlying claim. Plaintiffs seek additional time to determine the
20 whereabouts of their original note, but the "show me the note" defense is not cognizable.
21 The request for additional time is therefore DENIED.

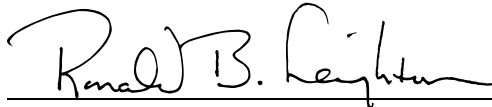
22 The Motions to Dismiss are GRANTED, and Plaintiffs' claims against Wells Fargo,
23 MERS, and Northwest Trustee Services are DISMISSED. Because there are no facts that the
24 Plaintiffs could plead consistent with the record, the dismissal is with prejudice and without
25 leave to amend.

26 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

ORDER- 2

1 Defendants Wells Fargo Bank, N.A.'s and Mortgage Electronic Registration Systems,
2 Inc.'s Motion to Dismiss for Failure to State a Claim is hereby GRANTED. Andrew S.
3 Wolf's and Stephanie L. Wolf's claims against Wells Fargo Bank, N.A.; Mortgage Electronic
4 Registration Systems, Inc.; and Northwest Trustee Services are dismissed with prejudice, and
5 without leave to amend.

6 DATED this 13th day of September 2011.

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9 RONALD B. LEIGHTON
10 UNITED STATES DISTRICT JUDGE
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ORDER- 3